

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

REUBEN D. LEHMANN,

Plaintiff,

v.

STATE OF WASHINGTON,

Defendant.

NO: 13-CV-0133-TOR

ORDER DISMISSING CASE

BEFORE THE COURT is a document entitled “Notice of Appeal to the U.S. District Court” filed by Reuben D. Lehmann (ECF No. 1). Mr. Lehmann’s application to proceed *in forma pauperis* (ECF No. 3) has already been granted (ECF No. 4). Pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii), “[n]otwithstanding any filing fee, or any portion thereof, that may have been paid, the court shall dismiss the case at any time if the court determines that the action or appeal fails to state a claim upon which relief may be granted.” A complaint fails to state a claim upon which relief may be granted if it lacks a cognizable legal theory or lacks sufficient

1 facts to support a cognizable legal theory. *Balistreri v. Pacifica Police Dep't.*, 901
2 F.2d 696, 699 (9th Cir. 1990).

3 Having reviewed Mr. Lehmann's "Notice of Appeal," the Court finds that it
4 fails to state a claim on which relief may be granted. While not entirely clear from
5 the face of the document, it appears that Mr. Lehmann is attempting to appeal the
6 dismissal of his case by the Washington Court of Appeals and the Washington
7 Supreme Court for failure to pay the requisite filing fees. The underlying dispute
8 appears to concern the issuance of a traffic infraction for failure to wear a seat belt
9 and a subsequent citation for driving without a license. *See* ECF No. 1 at 10, 13.

10 This Court lacks subject-matter jurisdiction to review the actions of
11 Washington State courts in civil cases. *See* 28 U.S.C. § 1331 ("The [federal]
12 district courts shall have original jurisdiction of all civil actions *arising under the*
13 *Constitution, laws, or treaties of the United States.*") (emphasis added). Thus,
14 pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii), Mr. Lehmann's "Notice of Appeal" will
15 be dismissed with prejudice.

16 Pursuant to 28 U.S.C. § 1915(a)(3), "[a]n appeal may not be taken *in forma*
17 *pauperis* if the trial court certifies in writing that it is not taken in good faith." The
18 good faith standard is an objective one, and good faith is demonstrated when an
19 individual "seeks appellate review of any issue not frivolous." *See Coppedge v.*
20 *United States*, 369 U.S. 438, 445 (1962). For purposes of 28 U.S.C. § 1915, an

1 appeal is frivolous if it lacks any arguable basis in law or fact. *Neitzke v. Williams*,
2 490 U.S. 319, 325 (1989).

3 The Court finds that any appeal of this Order would not be taken in good
4 faith and would lack any arguable basis in law or fact. Accordingly, the Court
5 hereby revokes Plaintiff's *in forma pauperis* status.

6 **IT IS HEREBY ORDERED:**

7 The "Notice of Appeal to the U.S. District Court" filed by Reuben D.
8 Lehmann (ECF No. 1) is **DISMISSED** with prejudice for lack of subject-matter
9 jurisdiction.

10 Plaintiff's *in forma pauperis* status is revoked.

11 The District Court Executive is hereby directed to enter this Order and a
12 Judgment accordingly, furnish copies to Mr. Lehmann, and **CLOSE** the file.

13 **DATED** June 14, 2013.



Thomas O. Rice
THOMAS O. RICE
United States District Judge